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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.NO.23135 OF 2021

&

WMP.NOS. 24399 & 24401 OF 2021

Thavathiru. T.Mani Sathu

... Petitioner

Vs

1. The Commissioner,
Hindu Religious & Charitable Endowment,
Nungambakkam High Road,
Chennai - 600 034.
2. The District Collector,
Tiruvannamalai District.
Tiruvannamalai.
3. The Joint Commissioner,
Hindu Religious & Charitable Endowment,
Administration,
Arunachaleswarar Temple,
Tiruvannamalai,
Tiruvannamalai District.
4. The Assistant Commissioner
Hindu Religious & Charitable Endowment,
Tiruvannamalai,
Tiruvannamalai District.
5. The Fit Person/Thakkar,
Issaki Sethar Samathi,
Vengikkal Village,
Tiruvannamalai District,
Office at: Executive Officer,



Kannigaparameshwari Temple,
Tiruvannamalai,
Tiruvannamalai District.

...Respondents

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Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in impugned proceedings in Sa.Mu.Na.Ka.No.5074/2019/ A2/ dated 20.11.2019 and consequently impugned proceedings dated 25.11.2019 issued by 5th respondent and quash the same and further directing the .respondents to permit the petitioner to perform their daily Poojas and manage the Isaki Swamigal Pedam based on his representation dated 06.12.2020.

For Petitioner : Mr.K.T.S.Sivakumar

For Respondent : Mr.NRR.Arun Natarajan
Government Advocate

ORDER

Mr.K.T.S.Sivakumar, learned counsel for writ petitioner and Mr.NRR.Arun Natarajan, learned State counsel, who accepts notice on behalf of all the respondents, are before this Court and with the consent of both sides, main writ petition is taken up as the matter turns on a very narrow compass. An 'order dated 20.11.2019 bearing reference No. Sa.Mu.Na.Ka.No.5074/2019/A2' (hereinafter 'impugned order' for the sake of convenience and clarity) has been called in question/assailed. The impugned order has been made under Section 49 (1) of 'the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Act 22 of 1959)' (hereinafter 'TN HR & CE Act' for the sake of convenience and clarity) appointing a Fit Person (Thakkar) to the temple mentioned therein.

2. Learned State counsel, on instructions, submits that the writ petitioner has been permitted to do poojas i.e., the religious/ecclesiastical functions in the temple for the present, but otherwise the Fit person has taken over/taken charge and there is no infirmity in the impugned order.



3. This Court, having perused the impugned order, finds that it is an innocuous simple order under Section 49 (1) of TN HR&CE Act. In the light of Section 1(3) of TNHR & CE Act read with Section 4 of TN HR&CE Act, this Court finds no reason to interfere with the impugned order. The writ petitioner, if at all and if that be so, should take recourse to Section 63 of TN HR & CE Act.

4. Learned counsel for writ petitioner submits that writ petitioner would take recourse to Section 63 of TN HR & CE Act. Therefore, it is made clear that writ petitioner being permitted to do poojas in said temple, which is a temporary phenomenon for the present as the writ petitioner is to proceed under Section 63 of TN HR&CE Act and this Court is informed that writ petitioner will approach the jurisdictional joint commissioner of 'Tamil Nadu Hindu Religious and Charitable Endowments Department' [TN HR & CE Dept.] as expeditiously as possible and in any event, within four weeks from today i.e., on or before 26.11.2021.

5. In the light of the aforesaid narrative, discussion and dispositive reasoning, captioned writ petition is disposed of albeit preserving the rights of the writ petitioner in the aforesaid manner and leaving open all questions including questions raised in the captioned writ petition to be canvassed in Section 63 proceedings (if initiated by writ petitioner within aforementioned time frame). Consequently writ miscellaneous petition are also disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

gpa

To

1. The Commissioner,
Hindu Religious & Charitable Endowment,
Nungambakkam High Road,
Chennai - 600 034.



2. The District Collector,
Tiruvannamalai District.
Tiruvannamalai.
3. The Joint Commissioner,
Hindu Religious & Charitable Endowment,
Administration,
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Tiruvannamalai,
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Vengikkal Village,
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Office at: Executive Officer,
Kannigaparameshwari Temple,
Tiruvannamalai,
Tiruvannamalai District.

+1cc to Mr.K.T.S.Sivakumar, Advocate, S.R.No.56584

+1cc to the Special Government Pleader(HR & CE), High Court,
Madras, S.R.No.56795

W.P.No.23135 of 2021
&
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BR(CO)
RLP(17/11/2021)